

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BRIAN ZACCARDELLI,

Petitioner

v.

//

CIVIL ACTION NO. 1:07CV119
(Judge Keeley)

WAYNE A. PHILLIPS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On September 7, 2007, pro se petitioner, Brian Zaccardelli ("Zaccardelli"), filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a report and recommendation ("R&R") in accordance with Local Rule of Prisoner Litigation 83.09.

After initial review, on September 18, 2007, Magistrate Judge Seibert entered an R&R recommending that this Court dismiss Zaccardelli's claims without prejudice. On September 28, 2007, Zaccardelli filed a motion to reconsider. Magistrate Judge Seibert granted the motion on October 1, 2007, and vacated his R&R.

Thereafter, on October 29, 2007, the respondent filed a motion to dismiss Zaccardelli's claims as moot. Zaccardelli responded on November 8, 2007. On December 27, 2007, Magistrate Judge Seibert entered an R&R recommending that this Court **GRANT** the respondent's motion, **DISMISS** Zaccardelli's claims **AS MOOT**, and **DISMISS** this case **WITH PREJUDICE**.

ORDER ADOPTING REPORT AND RECOMMENDATION

The R&R specifically warned that failure to object to the Magistrate Judge's recommendations would result in the waiver of any appellate rights on this issue. Nevertheless, Zaccardelli failed to file any objections.¹

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 17), **GRANTS** respondent's motion (dkt. no. 12), **DENIES** Zaccardelli's claims as moot, and **DISMISSES** this case **WITH PREJUDICE**. The Court orders the Clerk to **STRIKE** this case from the Court's docket.

The Clerk is directed to mail a copy of this Order to the pro se petitioner via certified mail, return receipt requested and to transmit copies of this Order to counsel of record.

Dated: February 21, 2008

/s/ Irene M. Keeley

IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ Zaccardelli's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).